

## REMARKS

### I. STATUS OF THE CLAIMS

Claims 2-24, 26-29 and 31-34 are canceled, without prejudice or disclaimer, as these claims were withdrawn from consideration.

Claims 1 and 25 are canceled.

New claims 35 and 36 are added.

In accordance with the foregoing, claims 30, 35 and 36 are pending and under consideration.

### II. OBEJCTION TO THE DRAWINGS

It is respectfully submitted that the Examiner did not specify any limitation of claim 1 that was not featured in the drawings. Instead, it is believed that the claimed features are shown in the drawings. For example, the features of claims 30, 35, and 36 are shown in Fig. 19.

In view of the above, it is respectfully submitted that the objection is overcome.

### III. OBJECTION TO THE CLAIMS

It is respectfully submitted that the claims as presented herein overcome the objection.

### IV. CLAIMS 1, 25, AND 30 ARE REJECTED UNDER 35 USC 112, 1<sup>ST</sup> PARAGRAPH, AS FAILING TO COMPLY WITH THE ENABLEMENT REQUIREMENT

It is respectfully submitted that the claims as presented herein overcome the rejection.

### V. CLAIMS 1, 25, AND 30 ARE REJECTED UNDER 35 USC 101 BECAUSE THE CLAIMED INVENTION IS DIRECTED TO NON-STATUTORY SUBJECT MATTER

Independent claims 35, 36, and 30 are directed "calculating and outputting to an output device, a parallel efficiency by using said load balance contribution ratio, said virtual parallelization ratio, and said parallel performance impediment factor." Accordingly, claims 35,

36, and 30 output a parallel efficiency to an output device and thereby provides a useful, concrete, and tangible result.

MPEP §2106 states that subject matter outside patentable statutory subject matter is limited to abstract ideas, laws of nature, and natural phenomena, where the claimed subject matter is not a *practical application or use* of an idea, a law of nature or a natural phenomena. Thus, a claim to an "abstract idea" is non-statutory when it does not represent a practical application of the idea. A claim is limited to a practical application when it recites a concrete, tangible and useful result (see, MPEP §2106).

Accordingly, a concrete, tangible and useful result is achieved not only by calculating a parallel efficiency by using said load balance contribution ratio but also "outputting to an output device" the parallel efficiency by using said load balance contribution ratio, said virtual parallelization ratio, and said parallel performance impediment factor. (see, State Street Bank & Trust Co. v. Signature Financial Group Inc., 47 U.S.P.Q.2d 1596 (Fed. Cir. 1998)).

Thus, it is respectfully submitted that because independent claims 35, 36 and 30 satisfy the requirements of 35 USC §101, withdrawal of the rejection is requested.

VI. CLAIMS 1, 25, AND 36 ARE REJECTED UNDER 35 USC 102(b) AS BEING ANTICIPATED BY THE ADMITTED PRIOR ART

Claims 1 and 25 have been cancelled and rewritten as claims 35 and 36, respectively.

Claim 35 recites:

calculating and outputting to an output device, a parallel efficiency by using said load balance contribution ratio, said virtual parallelization ratio, and said parallel performance impediment factor contribution ratio, and

wherein a load balance is not kept among said respective processors included in said parallel computer system.

The Applicant Admitted Prior Art (AAPA) relates to the performance evaluation of a parallel processing by using the parallel efficiency. The AAPA fails to teach or suggest the method of new claim 35. Accordingly, claim 35 is not anticipated by the AAPA and therefore patentably distinguishes over the cited art.

In view of the above arguments, it is respectfully submitted that claim 36 is also not anticipated by the AAPA and therefore patentably distinguishes over the cited art.

Amended claim 30 recites:

a fourth calculator for calculating and outputting to an output device, a parallel efficiency by using said load balance contribution ratio, said virtual parallelization ratio, and said parallel performance impediment factor contribution ratio, and

wherein a load balance is not kept among said respective processors included in said parallel computer system.

In view of the above arguments, it is respectfully submitted that claim 30 is not anticipated by the AAPA and therefore patentably distinguishes over the cited art.

VII. CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

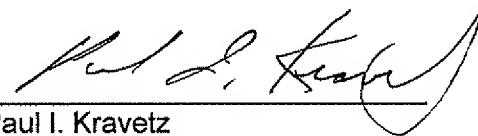
Respectfully submitted,

STAAS & HALSEY LLP

Date:

March 27, 2008

By:



Paul I. Kravetz  
Registration No. 35,230

1201 New York Avenue, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501